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EXTRAORDINARY PART II—Section 2 PUBLISHED BY AUTHORITY

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 15th December, 1959:—

BILL No. 100 OF 1959

A bill further to amend the Administration of Evacuee Property Act, 1950.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Administration of Evacuee Property Short title.
(Amendment) Act, 1959.

31 of 1950 5 2. In section 8 of the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the principal Act), after sub-section Amendment of section 8.
(2), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

10 “(2A) Without prejudice to the generality of the provisions contained in sub-section (2), all property which under any law repealed hereby purports to have vested as evacuee property in any person exercising the powers of Custodian in any State shall, notwithstanding any defect in, or the invalidity of, such law or
15 any judgment, decree or order of any court, be deemed for all purposes to have validly vested in that person, as if the provisions of such law had been enacted by Parliament and such property shall, on the commencement of this Act, be deemed to have been evacuee property declared as such within the meaning of
20 this Act and accordingly, any order made or other action taken by the Custodian or any other authority in relation to such property shall be deemed to have been validly and lawfully made or taken”.

Amendment
of section
10.

3. In section 10 of the principal Act, in sub-section (2), after clause (o), the following clause shall be inserted, namely:—

“(p) acquire any property, whether by way of purchase or otherwise:

Provided that no such acquisition shall be made except with the previous approval of the Custodian-General”.

Insertion of
new section
10A.

4. After section 10 of the principal Act, the following section shall be inserted, namely:—

Power to
recover rent
or damages
in respect of
evacuee
property
vested in the
Custodian.

“10A. (1) Where any person is in arrears of rent in respect of any evacuee property vested in the Custodian, the Custodian may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is deemed to be holding any evacuee property on behalf of the Custodian under sub-section (4) of section 8, the Custodian may, having regard to such principles of assessment of rent as may be prescribed, by order, assess the rent payable in respect of such property and that person shall be liable to pay the rent so assessed.

(3) Where any person is, or has at any time been, in unauthorised possession of any evacuee property vested in the Custodian, the Custodian may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such property and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order.

(4) Where any person being in possession of any evacuee property vested in the Custodian has caused damage to any such property, the Custodian may assess the compensation payable on account of the damage so caused and may, by order, require that person to pay the compensation within such time and in such instalments as may be specified in the order.

(5) No order shall be made under sub-section (2) or sub-section (3) or sub-section (4), until after the issue of a notice in writing to the person concerned calling upon him to show cause within such time as may be specified in the notice why such order should not be made and until his objections, if any, and any evidence he may produce in support of the same have been considered by the Custodian”.

5. In section 27 of the principal Act, the following Explanation shall be inserted at the end, namely:—

Amendment
of section
27.

5 “Explanation.—The power conferred on the Custodian-General under this section may be exercised by him in relation to any property, notwithstanding that such property has been acquired under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954”.

44 of 1954.

6. After section 41 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
42.

10 “42. The Custodian may, for the purpose of securing, administering, preserving and managing any evacuee property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, require any person to submit to him such accounts, books or other documents or to furnish to him such information relating to any evacuee property as he may reasonably think necessary”.

Power to
call for
information.

91 of 1956. 20 7. In section 48 of the principal Act, in sub-section (3), after the words “is barred” the words, brackets and figures “or was, at the commencement of the Administration of Evacuee Property (Amendment) Act, 1956, barred”, shall be inserted.

Amendment
of section 48.

8. In section 55 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section 55.

25 “(2) Any power exercisable by a State Government by virtue of a direction under sub-section (1) may, unless otherwise provided in such direction, be exercised also by such officer or authority as the State Government may specify in this behalf”.

9. In section 56 of the principal Act, —

Amendment
of section 56.

(a) in sub-section (2), after clause (j), the following clause shall be inserted, namely:—

30 “(jj) the manner in which rent of any property or damage for unauthorised possession of any property may be assessed, and the principles which may be taken into account in assessing such rent or damages”;

35 (b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a period of thirty days which

may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter^s have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule".

STATEMENT OF OBJECTS AND REASONS

Certain difficulties are being experienced in the working of the Administration of Evacuee Property Act, 1950, and they are hindering the early completion of residual work. It is proposed to amend the Act suitably to remove these difficulties.

2. Section 8 of the Act was intended to provide for automatic vesting of evacuee property in the Custodian where such property had vested in any person exercising the powers of Custodian under any Provincial or State law repealed thereby. The validity of such repealed Provincial or State law has been questioned in certain High Courts. It is proposed to make the position clear beyond doubt and to validate such vesting.

3. At present there is no specific provision in the Act empowering the Custodian to determine and recover rent or damages from statutory tenants or unauthorised occupants of evacuee property nor for the recovery of compensation in cases where damage is caused to evacuee property by the occupants. It is proposed to insert a new section 10A to empower the Custodian to determine and recover rent and damages in such cases. Difficulties are also sometimes experienced where evacuee and non-evacuee interests are inter-mixed and the non-evacuee owners are unwilling or not in a position to purchase the evacuee share. In such cases, it is necessary to empower the Custodian to purchase non-evacuee property out of the cash balances lying with him or in the evacuee pool. Section 10 is being suitably amended for the purpose.

4. Under the existing Act, a Custodian has no powers to call for any returns, accounts or other information. This power is necessary in the interest of better administration and management of evacuee property and a new section 42 is sought to be inserted for the purpose.

5. Instances have come to notice where some properties were wrongly declared to be evacuee property and they were also acquired. To afford relief in such genuine and hard cases, it is necessary to empower the Custodian-General under section 27 to restore such property to the non-evacuee owner, even in cases where the property has been acquired under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. Section 27 is being suitably amended for the purpose.

6. When the Central Government delegates any of its powers to a State Government, there is no provision in the existing Act enabling the State Government to re-delegate the power to any officer or authority subordinate to it. It is necessary to empower the State Government to do so, particularly in relation to management of evacuee trust properties and section 55 is proposed to be amended suitably for the purpose.

NEW DELHI;

MEHR CHAND KHANNA.

The 9th December, 1959.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill seeks to amend section 56 of the Act so as to enable the Central Government to make rules in regard to the principles which may be taken into account in assessing rent or damages and the manner in which rent or damages may be assessed. These are matters of detail and the delegation of legislative power is thus of a normal character.

*BILL NO. 99 OF 1959

A bill further to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Displaced Persons (Compensation and Rehabilitation) Second Amendment Act, 1959.

Amendment of section 2. 2. In section 2 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as the principal Act), in clause (d), after sub-clause (iii), the following sub-clause shall be inserted, namely:— 44 of 1954.

“(iiiia) any dues payable, whether in one lump sum or in instalments, to a co-operative society, registered as such under any law for the time being in force, by the displaced person on account of loans granted to him by the co-operative society, where such loans have been granted out of funds placed at the disposal of the co-operative society by the Central Government or a State Government and such dues have been declared by the Central Government, by notification in the Official Gazette, to be public dues;”.

Amendment of section 3. 3. In section 3 of the principal Act,—

(i) in sub-section (1), for the words “a Deputy Chief Settlement Commissioner and as many Settlement Commissioners”, the words “and as many Deputy Chief Settlement Commissioners, Settlement Commissioners” shall be substituted;

*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

(ii) in sub-section (2), for the words, "the Deputy Chief Settlement Commissioner and all Settlement Commissioners", the words "all Deputy Chief Settlement Commissioners, Settlement Commissioners" shall be substituted.

- 5 4. In section 19 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment
of section 19.

10 " (4) Where a managing officer or a managing corporation is satisfied that any person, whether by way of allotment or lease, is, or has at any time been, in possession of any evacuee property acquired under this Act to which he was not entitled, or which was in excess of that to which he was entitled, under the law under which such allotment or lease was made or granted, then, without prejudice to any other action which may be taken against that person, the managing officer or the managing corporation may, having regard to such principles of assessment of rent as 15 may be specified in this behalf by the Central Government, by order, assess the rent payable in respect of such property and that person shall be liable to pay the rent so assessed for the period for which the property remains or has remained in his possession:

20 Provided that no such order shall be made without giving to the person concerned a reasonable opportunity of being heard.

25 (5) Where any person is, or has at any time been, in unauthorised possession of any evacuee property acquired under this Act, the managing officer or the managing corporation may, having regard to such principles of assessment of damages as may be specified in this behalf by the Central Government, assess the damages on account of the use and occupation of such property and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the 30 order:

Provided that no such order shall be made without giving to the person concerned a reasonable opportunity of being heard."

5. In section 20 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:— Amendment
of section 20.

35 "(1A) For the purpose of transferring any property out of the compensation pool under sub-section (1), it shall be lawful for the managing officer or the managing corporation to transfer the same to a displaced person jointly with any other person or an association of displaced persons or otherwise."

Insertion of
new section
20B.

6. After section 20A of the principal Act, the following section shall be inserted, namely:—

Restrictions
on restora-
tion of
certain
property.

"20B. (1) Where any person is entitled to the restoration of any property by virtue of an order made by the Custodian-General under section 27 of the Administration of Evacuee Property Act, 1950, or by the competent officer under the Evacuee Interest Separation Act, 1951, and the Central Government is of opinion that it is not expedient or practicable to restore the whole or any part of such property to that person by reason of the property or part thereof being in occupation of a displaced person or otherwise, then, notwithstanding anything contained in the said Acts or this Act, it shall be lawful for the Central Government—

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31 of 1950.
64 of 1951.

(a) to transfer to that person in lieu of the property to be restored or any part thereof, any immovable property in the compensation pool or any part thereof, being in the opinion of the Central Government as nearly as may be of the same value as the property to be restored or, as the case may be, any part thereof, or

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(b) to pay to that person such amount in cash from the compensation pool in lieu of the property to be restored or part thereof, as the Central Government having regard to the value of the property to be restored or part thereof, may in the circumstances deem fit.

(2) Where in pursuance of sub-section (1) any person has been granted any immovable property from the compensation pool or has been paid any amount in cash from the compensation pool, his right, title and interest in the property to be restored shall be deemed to have been extinguished."

Amendment
of section 221

7. In section 21 of the principal Act, in sub-section (3), after the words "is barred", the words, brackets and figures "or was, at the commencement of the Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1956, barred" shall be inserted.

86 of 1956.

Amendment
of section 26.

8. In section 26 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Every officer appointed under this Act may, for the purpose of making an inquiry under this Act and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, require any person to submit to him such accounts, books or other documents or to furnish to him such information relating to any evacuee property acquired under this Act as he may reasonably think necessary."

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9. In section 31 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:— Amendment
of section 31.

5 “(5) If at any time the Central Government is of opinion that the continued existence of the Board is unnecessary, it may, by notification in the Official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the notification and the Board shall be deemed to be dissolved accordingly.”.

10 10. In section 34 of the principal Act, in sub-section (2), for the words “the Deputy Chief Settlement Commissioner”, the words “a Deputy Chief Settlement Commissioner” shall be substituted. Amendment
of section 34.

11. In section 40 of the principal Act,—

Amendment
of section 40.

(a) in sub-section (2),—

15 (i) after clause (h), the following clause shall be inserted, namely:—

20 “(hh) the manner in which any dispute as to who are the successors-in-interest of any deceased claimant to a rehabilitation grant or other grant, and as to the apportionment of such grant among persons entitled thereto, may be determined”;

(ii) after clause (n), the following clause shall be inserted, namely:—

“(nn) the fees payable in respect of appeals, revisions or other applications made under this Act;”;

25 (b) for sub-section (3), the following sub-section shall be substituted, namely:—

30 “(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall there-
35 after have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Validation of
certain
action taken.

12. (1) Any fees in respect of appeals, revisions or other applications which, before the commencement of this Act, have been levied under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, shall be deemed to have been validly levied, as if this Act and the amendments made thereby were in force when such fees had been levied.

44 of 1954.

(2) No order made, no action taken and nothing done before the commencement of this Act by any person exercising the powers of a Deputy Chief Settlement Commissioner shall be invalid or shall be deemed ever to have been invalid merely by reason of any defect in, or invalidity of, the appointment of such person and such appointment shall be deemed to have been validly made, as if this Act and the amendments made thereby were in force on the date of such appointment.

STATEMENT OF OBJECTS AND REASONS

Certain difficulties are being experienced in the administration of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and they are hindering the smooth working of the compensation scheme and its early completion. It is proposed to amend the Act suitably to remove these difficulties.

2. A large amount of money has been advanced by the Central Government and State Governments to displaced persons through co-operative societies. It is considered necessary that these loans should be treated as public dues within the meaning of section 2(d) of the Act so that they may be adjusted against the compensation payable to such persons. It is proposed to amend the definition of "public dues" suitably for the purpose. There have been cases where displaced persons have obtained allotment of excess land by fraudulent means, mis-representation or otherwise. It is but proper that these displaced persons should pay rent at an enhanced rate for such excess land, but there is no provision in the existing Act for the recovery of such rent. There is also no specific provision for the recovery of damages from unauthorised occupants of evacuee property acquired under the Act. It is proposed to amend section 19 for these purposes.

3. Instances have come to notice where some properties were wrongly declared to be evacuee property and they were also acquired. In such cases, the Custodian-General is empowered under section 27 of the Administration of Evacuee Property Act, 1950, to restore such property to the non-evacuee owner. Similarly, a competent officer has also power under the Evacuee Interest Separation Act, 1951, to declare a share in a property to be non-evacuee after the whole of it has been declared to be evacuee property and has been acquired. It is not sometimes possible to restore the original property to the non-evacuee owner because of its transfer to a displaced person. To overcome this difficulty, it is proposed to insert a new section 20B on the lines of section 20A. There is no provision in the existing Act for the dissolution of the Advisory Board which has been constituted under section 31. It is considered necessary to empower the Central Government to dissolve the Board when it considers that the continuance of the Board is no longer necessary. Section 31 is proposed to be amended accordingly.

4. The present Bill also seeks to make some other minor amendments for the removal of certain doubts and difficulties which have arisen in the working of the Act.

MEHR CHAND KHANNA.

NEW DELHI;

The 9th December, 1959.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for appointment of more than one Deputy Chief Settlement Commissioner. In section 3 of the existing Act, reference has been made to a Deputy Chief Settlement Commissioner. In actual practice, three Deputy Chief Settlement Commissioners have had to be appointed to cope with the work. The extra expenditure which the Government had incurred up to the 30th November, 1959 on two additional posts of Deputy Chief Settlement Commissioners came to approximately Rs. 75,000. The recurring expenditure on these two posts would be approximately Rs. 30,000 per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under clause 4 of the Bill which seeks to amend section 19 of the Act, the Central Government has been empowered to specify the principles of assessment of rent and damages which will be taken into consideration by the managing officer or the managing corporation for such assessment. Clause 11 of the Bill seeks to amend section 40 of the Act in order to enable the Central Government to make rules for the levy of fees in respect of appeals, revisions and other applications. These are matters of detail and the delegation of legislative power is thus of a normal character.

M. N. KAUL,
Secretary.